

Donald J. Sears, Esq.
Township of South Brunswick
540 Ridge Road
P.O. Box 190
Monmouth Junction, NJ 08852
Phone No.: (732) 329-4000

Attorney for Declaratory Plaintiff,
Township of South Brunswick

IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
SOUTH BRUNSWICK FOR A
JUDGMENT OF COMPLIANCE AND
REPOSE AND TEMPORARY
IMMUNITY FROM MOUNT LAUREL
LAWSUITS

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

DOCKET NO.: MID-L-3878-15

CIVIL ACTION – *MOUNT LAUREL*

CERTIFICATION OF DONALD J. SEARS,
IN SUPPORT OF MOTION FOR
CONSOLIDATION OR IN THE
ALTERNATIVE INTERVENTION, AND
IN OPPOSITION TO THE CROSS
MOTION OF SOUTH BRUNSWICK
CENTER, LLC

I, Donald J. Sears, of full age, do hereby certify as follows:

1. I am an attorney-at-law in the State of New Jersey, employed as the Director of Law for the Township of South Brunswick, the attorney for the Declaratory Plaintiff in the above-captioned matter, and have personal knowledge of the facts set forth in this certification.

2. The documents attached hereto are true and exact copies of documents on file in the Township of South Brunswick.

3. The Cross-Motion filed by South Brunswick Center that purports to be returnable on Friday, February 5, 2016, was not served upon my office until it was delivered via regular mail and hand-delivery on Monday, February 1, 2016, as evidenced by the date stamp applied to the documents by my office when it was received (See Exhibit A).

4. The Cross-Motion appears to have been sent to all parties and the court via email on Friday, January 29, 2016, at 8:35 p.m. (See Email attached hereto as Exhibit B). This was

well beyond normal business hours, which end at 4:30 p.m. I was unable to review the email and its attachment until I returned to the office on Monday, February 1, 2016.

5. Attached hereto as Exhibit C is a true copy of the South Brunswick Planning Board's resolution of approval in the matter of Jersey Center Fidoreo, Inc., a/k/a South Brunswick Center, dated June 15, 1994.

6. The June 15, 1994, resolution of approval granted:

- a) Minor Subdivision and Lot Line Adjustment for Block 86, Lots 22.03 and 22.04; and
- b) Preliminary Major Subdivision for Block 86, Lots 89.013 and 89.023

7. Pursuant to N.J.S.A. 40:55D-47, the Minor Subdivision and Lot Line Adjustment approval had to be perfected by the filing of a deed or plat map with the Middlesex County Clerk within 190 days from June 15, 1994. After diligent search of the County records, I have located no such deed or plat map that was ever recorded with the County.

8. Attached hereto as Exhibit D is a true copy of the Developer's Agreement between the Township of South Brunswick, the Planning Board of the Township of South Brunswick and Jersey Center Fidoreo, Inc., dated May 2, 1995.

9. Attached hereto as Exhibit E is a true copy of the South Brunswick Planning Board's resolution of approval in the matter of South Brunswick Center, LLC's, application for Minor Subdivision approval dated June 16, 2010.

10. Attached hereto as Exhibit F is a true copy of the filed subdivision map entitled "Minor Subdivision Plat of Northumberland Way and Block 86.03, Lot 22.03 & Block 86, Lot 22.04, for South Brunswick Center, L.L.C.," prepared by Henderson and Bodwell, L.L.P., last revised October 8, 2010, which was filed in the Office of the Middlesex County Clerk on December 15, 2010, as Map No. 58, File 1945

11. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: February 2, 2016

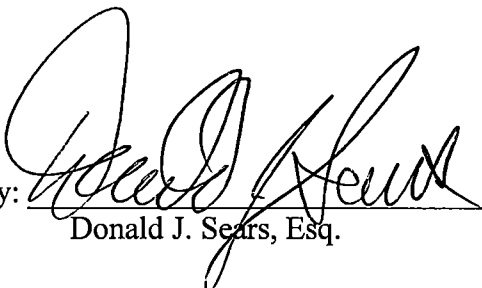
By: 
Donald J. Sears, Esq.

EXHIBIT A

WATERS, MCPHERSON, MCNEILL

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SECAUCUS - TRENTON - NEW YORK

MEADOWLANDS OFFICE

300 LIGHTING WAY

P.O. Box 1560

SECAUCUS, NEW JERSEY 07096

201-863-4400

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KENNETH D. MCPHERSON, JR.
MEMBER OF N.J. & N.Y. BARS

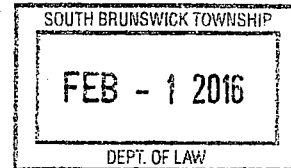
DIRECT DIAL
201-330-7468

E-MAIL
kmj@lawwmm.com
TELECOPIER
201-863-2866

January 29, 2016

Via Regular Mail and Email

Clerk of the Court
Middlesex County Superior Court
Middlesex County Courthouse, Law Division
56 Paterson Street
New Brunswick, NJ 08903



RE: South Brunswick Center, LLC v.
Township of South Brunswick and Planning
Board of Township of South Brunswick
Docket No. MID-L-3878-15:

Notice of Cross-Motion for Declaration of Non-
Compliance With Mount Laurel IV Declaratory
Judgment Process

Dear Sir/Madam:

This is on behalf of Cross-Movant South Brunswick Center, LLC's ("SBC") in the above-referenced matter. Enclosed herewith for filing please find an original and two (2) copies of the following:

1. Notice of Cross-Motion for Order Granting Leave for SBC to Intervene as Participant in Opposition to Both the Township of South Brunswick Complaint for Declaratory Judgment and Township's Motion for Temporary Immunity from Builder's Remedies;
2. Memorandum of Law in Support of Cross-Motion;
3. Certification in Support of Cross-Motion, Authenticating copies of Supporting Exhibits Annexed thereto;
4. Proposed form of Order; and

EXHIBIT B

Sears, Don

From: McPherson, Jr., Kenneth <kmj@lawwmm.com>
Sent: Friday, January 29, 2016 8:35 PM
To: Sears, Don; 'Clare Thompson'; 'kmoore@sillscummis.com'; 'brettt@wilf-law.com'; 'rkasuba@bisgaierhoff.com'; 'hkent-smith@foxrothschild.com'; 'kevinwalsh@fairsharehousing.org'; 'buccacampisano@gmail.com'; 'ccofone@cofoneconsulting.com'; Adam Gordon (adamgordon@fairsharehousing.org); Shirley Sommers (Shirley.Sommers@judiciary.state.nj.us); ANDREW BROWN (andrew.brown@judiciary.state.nj.us); Kevin Walsh
Cc: Marc D. Policastro
Subject: DJ Action of of the Twp. of S. Brunswick - Dkt. No. MID-L-3878-15: Intervener SBC 's Response to Twp. Consolidation Motion and Cross - Motion for Declaration of Non-compliance / Preliminary Injunction Against Twp. Appropriation of SBC Sewer Utility South Brunswick Center - cross motion for injunction against seizure of Sewer Utility Resrvedfor Inclusionary Housing.pdf
Attachments:

Via email and Regular Mail

To: Chambers of Hon. Douglas K. Wolfson , JSC

Cc: All Counsel of Record ; Special Master Cofone – Nazzaro

Fr: Kenneth D. McPherson , Jr (Waters, McPherson, McNeill, P.C., attorneys for Intervener - Cross movant South Brunswick Center, LLC

Date: Jan. 29, 2016

File: I/M/O Declaratory Judgment Action of Twp of South Brunswick Dkt No. MID-L- 3878:
Township Motion for Consolidation Returnable Feb 5 , 2016

Re: Intervener South Brunswick Center , LLC Opposition to Township and Cross – Motion for Declaration of Non – Compliance with Declaratory Judgment Process and for Preliminary Injunction Against Township Appropriation of SBC on – site Sewer Utility Needed for Service of Inclusionary Housing Development

On behalf of Intervener South Brunswick Center , LLC in ("SBC") in the captioned matter , attached are copies of SBC's response to the plaintiff – movant, Township of South Brunswick ("Township") motion for consolidation, and in support of SBC's cross – motion, respectfully seeking an order declaring the Township non – complaint with the Mount Laurel IV Declaratory Judgment process, and preliminarily enjoining the Township from further actions (described in the cross – motion papers) , in effect , appropriating sewer utility facilities, built by SBC on its own site , which are p reserved for priority service of inclusionary housing development on SBC's property as also described therein (the Township is by Ordinance attempting to , in effect , expropriate and redirect SBC 's Sewer Utility , as municipal assets , rededicated to service of favored, non – residential, development at off- site locations.

Respectfully Submitted,

Waters, McPherson , McNeill, P.C.
Attorneys for Intervener SBC

300 Lighting Way
Secaucus , NJ 07096
201-863-4400
Fax 201-863-2866

Kenneth D. McPherson , Jr Esq
201-330-7468

EXHIBIT C

SBC
SB Planning Bd
Resolution

RESOLUTION

(corrected per August 1, 1994
letter of T. Cafferty, Esq.)

Re: SD 1175/SD 1175A
Jersey Center/Fidoreo, Inc.
a/k/a South Brunswick Center
U.S. Route 1 (north) @ Northumberland Way
Block 86, Lots 22.03, 22.04, 89.013, 89.023

Minor Subdivision and Preliminary Major Subdivision Approvals
with Waiver and Design Exceptions.

Dates of Hearing: January 19, 1994, February 16, 1994, March 9,
1994, March 30, 1994, April 27, 1994, May 11, 1994 and June 15,
1994

WHEREAS, Applicant, Jersey Center/Fidoreo, Inc., requests
minor subdivision approval with waivers and design exceptions
to adjust boundaries between two existing lots, and
preliminary major subdivision approval with waivers and design
exceptions to create 15 new lots [14 OR lots, 1 R-2 lot and 1
lot to be consolidated with existing Lot 27.01 in Block 86];
and

WHEREAS, the minor subdivision consists of a 33.8 acre
parcel located entirely within an OR Zone; and the major
subdivision consists of a 413.349 acre parcel, portions of
which are located in the OR & R-2 Zones; and

WHEREAS, the Applicant, with respect to the minor
subdivision, proposes to adjust the boundary line between two
existing lots [Lots 22.03 and 22.04 in Block 86]; and

WHEREAS, the application was submitted on August 26,
1993, deemed incomplete on October 15, 1993, resubmitted on
November 1, 1993 and deemed complete on November 23, 1993; and

WHEREAS, application fees of \$300.00 and escrow fees of
\$3,100.00 were paid on September 1, 1993 and the escrow
account was supplemented by \$6,000.00 on May 16, 1994; and

WHEREAS, the plans and documents filed, reviewed and

accepted into evidence in the hearing on the application are as follows:

Plans:

"Minor Subdivision and Road Realignment Plan", prepared by Henderson and Bodwell, dated August 23, 1993 and revised through November 22, 1993;

"Preliminary Plat", prepared by Henderson and Bodwell, dated August 23, 1993 and revised through March 16, 1994;

"Improvement Plans", (36 sheets), prepared by Henderson and Bodwell, dated August 23, 1993 and revised through March 16, 1994;

"Signing, Striping & Street Tree Planting Plan", (2 sheets), by Henderson and Bodwell, dated November 22, 1993, no revisions;

Documentary Evidence:

Exhibit A-1: "Road Alignment Plat, Lots 22.03 and 22.04";

Exhibit A-2: "Plan entitled 'South Brunswick Center' Exhibit A";

Exhibit A-3: "Map entitled 'South Brunswick Center' Exhibit C";

Exhibit A-4: "South Brunswick Center Preliminary Plat";

Exhibit A-5: "South Brunswick Center, Exhibit B";

Exhibit A-6: "Exhibit of Total Lot Area and Open Space Area";

Exhibit A-7: "New Residential Lot 101";

Exhibit A-8: "Storm Water Management Plan";

Exhibit A-8(1): "Overlay of Exhibit A-8";

Exhibit A-9: "Map of Sewer/Water Design Flows";

Exhibit A-10: "Central Jersey Region and State Comparative Performance Chart";

Exhibit A-11: "Central Jersey Population Projection Chart";

Exhibit A-12: "Labor Force Projection 1990-2005 by Region and County";

Exhibit A-13: "Industry Employment Projection 1990-2005 by Region and County"; and

WHEREAS, the property taxes have been certified as current by the Tax Collector; and

WHEREAS, the Planning Board conducted a public hearing on this application on January 19, 1994, February 16, 1994, March 9, 1994, March 30, 1994, April 27, 1994, May 11, 1994 and June 15, 1994; and

WHEREAS, at said public hearings, the Board heard argument from Lois Van Deusen, Esquire, attorney for the Applicant, and testimony from Applicant's experts: James R. DeLand, Jr., a licensed Professional Engineer; Michael Belknap, who testified as an expert on economic conditions as they relate to real estate generally and the subject property in particular; Dr. Donald M. Scarry, PhD in Economics from Rutgers University and Law Degree from Rutgers University; and

WHEREAS, Andre Gruber, Esquire, an attorney representing an objector and Lawrence Sachs, an attorney representing an objector, appeared and made arguments; and

WHEREAS, the Staff Report of Robert G. Hall, Planning Director for the Township, dated January 14, 1994, was accepted into evidence by the Board; and

WHEREAS, the Board received representations from Staff as to this application; and

WHEREAS, at the various public hearings, the public was invited to comment, pose questions and testify and various members of the public and counsel representing objectors did so comment and pose questions; and

WHEREAS, on the basis of the aforesaid testimony and documentary record, the Board makes the following findings of fact and conclusions:

1. All jurisdictional requirements have been met.
2. Minor Subdivision Design Waivers: Applicant seeks the following waivers in connection with the minor subdivision part of the application:

- (a) *Section 175-41.A.(1)(c)* - requires the depiction of all streets, roads, drainage, rights-of-way, streams and existing utility lines within 500 feet of the tract. Applicant requests a waiver reducing this requirement to 200 feet. The Planning Staff has recommended the grant of this waiver inasmuch as the items are not necessary for review in this case and, accordingly, the Board concurs in such recommendation and grants the requested waiver.
- (b) *Section 175-41.A.(1)(f)* - requires a key map at a scale of 1"= 1,000 feet. Applicant requests this be altered to 1"= 2,000 feet. For reasons specified in Subsection (a), the Planning Staff has recommended such waiver and the Planning Board concurs in the recommendation and, accordingly, grants the requested waiver.
- (c) *Section 175-41.A.(1)(h)* - Applicant seeks a waiver of the requirement for an Environmental Impact Statement (EIS) since this was fulfilled as part of the major subdivision on the adjoining parcel and encompassed the subject parcel. The Planning Staff recommends the requested waiver and the Planning Board concurs in such recommendation and, accordingly, grants the requested waiver.

3. Minor Subdivision Design Exceptions: A design exception is requested in connection with the minor subdivision from *Section 175-59.C.(4)*. The design standard requires that the right-of-way and the pavement of certain streets be widened by 2 feet for a distance of 200 feet back from the intersection. The Planning Staff recommends the grant of this waiver and the Planning Board concurs in such recommendation and, accordingly, grants the requested waiver.

4. Major Subdivision Design Waivers: The following waivers are requested in the major subdivision part of the application:

- (a) *Section 175-42.A.1(a)* requires a scale of 1"= 50 feet and the Applicant has proposed a scale of 1"= 200 feet. If the literal language of the Ordinance was followed the drawing, as prepared, would be unwieldy and unworkable. Accordingly, the Planning Board grants the requested waiver.
- (b) *Section 175-42.A.1(I)* requires the exact location of existing trees with a caliper of 5" or more and within 25 feet of any street right-of-way. The Planning Board finds that because the road system has been fixed by a Settlement Agreement

between the New Jersey Department of Environmental Protection and Energy, Rieder Land Technology, Inc., New Jersey Conservation Foundation, New Jersey Audobon Society, Association of New Jersey Environmental Commissions and American Littoral Society, dated March 30, 1992, there is no flexibility in the location of the roadways and consequently the trees will have to be removed regardless of their size as may be necessary to install the roadway system in accordance with the Settlement Agreement. The roadway alignment is also consistent with the Circulation Element of the Master Plan. Accordingly, the Board grants the requested waiver.

- (c) *Section 175-42.A.1(m)* requires an applicant to show on the plat and to place on the site stakes at the center of all cul-de-sacs and at all intersections to aid on-site inspections. Applicant does not propose any cul-de-sacs so the only applicability of the Section in question would be to assist field inspections to ascertain the field layout of the roads for the purposes of realignment, if necessary, because of site problems. This Section is not deemed necessary by the Board in the context of this application inasmuch as the alignment of all roads has been fixed by the aforesaid Settlement Agreement and there exists no flexibility. As previously noted, the roadway alignment is consistent with the Circulation Element of the Master Plan. Accordingly, the Board grants the requested waiver.
- (d) *Section 175-42.A.1(p)* requires a Key map at a scale not smaller than 1"= 1,000 feet. Applicant has provided a key map at a scale of 1"= 2,000 feet. Because the project is in excess of 400 acres, a key map of the size required by the Ordinance would be four times the key map currently provided and would make the plans unwieldy. The current size key map meets the intent of the Ordinance and the Board has determined to grant the requested waiver.
- (e) *Section 175-59.B.6* - Applicant requested a waiver of this section but has withdrawn the waiver request.
- (f) *Section 175-59.D.* specifies the requirements for bikeways. Applicant proposes that these requirements be incorporated into site plans as the individual lots develop. Technically, the Planning Board views this not as a waiver request but as a deferral until site plan approval and the Planning Board grants the deferral request.
- (g) *Section 175-41.A.1(i) and Section 175-42.A.1(q)* require submission of a Letter of Interpretation. The Applicant has submitted a copy of a Settlement Agreement, dated March 30, 1992, described previously in this Resolution. The Planning Board has determined that this Settlement Agreement constitutes an appropriate substitute for a Letter of Interpretation and, accordingly, grants the waiver request from these sections.

5. Major Subdivision Design Exceptions: Applicant also seeks the following design exceptions:

- (a) *Section 175-59.C.(2)* - this section requires a 1,200 foot distance between East Arterial Road and Development Zone Access Road as same intersects Northumberland Way or 2,000 feet if Northumberland Way is considered a major arterial. Applicant has withdrawn its request for this exception and will at this time treat Access Road as a private drive and will revise the plans to reflect same. Applicant will resubmit such request in connection with the application for a Phasing Plan.
- (b) *Section 175-59.C.(4)* requires that the right-of-way and the pavement of certain streets be widened by 2 feet for a distance of 200 feet back from the intersection. This request for design exception is granted by the Board; and

6. Applicant has made application, pursuant to *N.J.S.A. 40:55D-49(d)* to extend the three (3) year statutory period of protection to twenty (20) years. In support of said application, Applicant has place before the Board the testimony of Michael Belknap and Donald M. Scarry, PhD. The Board agrees with the thrust of the testimony of Messrs. Belknap and Scarry that, given the potential size of this development (6.43 million square feet of office space at full build out), the present and projected economic conditions for the region and the comprehensiveness of the development, it is clear that the project will not feasibly be completed within the three (3) year period of protection against changes in zoning requirements granted by *N.J.S.A. 40:55D-52(a)*. Accordingly, the Board determines that a longer period of protection is both appropriate and necessary for this subdivision. The Board is persuaded that a twenty (20) year period of protection is appropriate upon the condition that Applicant construct at least two (2) lanes of Northumberland Way from Route 1 to Major

Road and all necessary improvements in connection therewith within ten (10) years from the date of this Resolution. In the event such improvements are not completed within ten (10) years, then the term of this approval shall be for ten (10) years without further action of this Board. Consequently, the Board determines that in balancing the public interest with the interest of the Applicant as described herein, the rights granted to the Applicant pursuant to *N.J.S.A. 40:55D-49(a), (b) and (c)* are hereby granted for a total period of twenty (20) years from the date of this Resolution, subject to the conditions specified herein above.

7. There have been executed a series of Station Development Agreements between various parties and the New Jersey Transit Corporation pertaining to the design and construction of a commuter train station and parking facilities on property owned by Applicant's predecessor in title.
8. By letter dated December 24, 1993, the New Jersey Transit Corporation has referred to such agreements as "defunct" although there appears to have been no formal declaration of nullity by New Jersey Transit. Consequently, the Board considers such agreements binding on this Applicant unless and until such time as such Agreements are clearly rescinded by New Jersey Transit.
9. The Applicant has submitted a Lot By Lot Hydrologic Report, prepared by Henderson & Bodwell, dated February 25, 1994, which indicates that, at maximum design density, the project will have sufficient capability on each site for a detention or retention basin to retain/detain peak run-off in a post development stage in accordance with applicable

provisions of the South Brunswick Development Ordinance.

10. Applicant will, upon the signing of final subdivision or site plan approval for any section of the property, commence installation of two lanes of Northumberland Way from Route 1 to Major Road provided that the Township shall acquire the land necessary for construction of Northumberland Way from the southerly boundary of the property to Major Road, which construction shall be completed prior to the issuance of a Certificate of Occupancy for any building on the property.
11. Applicant agrees to cooperate with New Jersey Transit to facilitate the construction of a rail station and related improvements including, but not limited to, an access road from Route 1.
12. During the construction of Northumberland Way as described in the Paragraph 10, Applicant shall install the entire storm water management system as shown on the plans submitted in support of the application and such portions of the sanitary sewer and water system in the manner depicted on such plans as the Township Engineer shall reasonably determine are necessary.
13. The New Jersey Department of Transportation ("NJDOT") has issued a Highway Occupancy Permit, Permit No. S-1-3-12-84, on or about December 18, 1985, permitting the construction of one new street intersection to be known as Northumberland Way (six lanes) on the east side of Route 1, which Permit is conditioned, inter alia, on the fact that it will accommodate the first 650,000 square feet of

development noting that the future expansion by the developer will require additional improvements both on and off the site and that any build out above 650,000 square feet must be pursuant to an approved Agreement between the Applicant, NJDOT and South Brunswick Township.

14. Applicant has represented that there currently is available under the aforesaid Highway Occupancy Permit approximately 400,000 square feet, which represents the amount of square footage remaining to be constructed before the permissible levels of development under the aforesaid Highway Permit are exceeded.
15. Applicant has agreed that six lanes of Northumberland Way as shown on the plans filed with this Application, together with not less than four lanes from the southerly boundary of the property to Major Road shall be completed prior to the issuance of a Certificate of Occupancy for any building on the property subject to this preliminary major subdivision application which, together with such square footage as may be constructed in Block 86 on Lots 22.03, 22.04 and 21.10 after the date hereof, creates square footage in excess of 400,000 square feet (that amount of square footage remaining to be constructed before Developer exceeds the permissible levels of development under that certain Highway Occupancy Permit No. S-1-3-12-84 issued by the New Jersey Department of Transportation).
16. Applicant will construct East Arterial Way as depicted on said plans, which will be connected to Station Access Road.

17. Applicant has further committed to construct East Arterial Way on tract as shown on the plans prior to the issuance of a Certificate of Occupancy for any building on any lot (which is the subject of the preliminary major subdivision approval) contiguous to such roadway.
18. The Applicant has agreed, as part of the minor subdivision, to relocate a portion of the previously approved location for Northumberland Way so as to cause said relocated Northumberland Way to conform more with the alignment anticipated for Northumberland Way by the South Brunswick Township Master Plan.
19. Applicant will construct Station Access Road as depicted on said plans as a connection to Northumberland Way at its northerly end and as a connection to the proposed East Arterial Way at its southerly end.
20. Applicant has further agreed to complete the off-tract four lane extension of Northumberland Way from the southerly boundary of the property to Major Road in the same manner and in the same stages as the on-tract portion of Northumberland Way as described hereinabove.
21. Applicant has agreed to install certain improvements to the Route 1 intersection with Northumberland Way including, but not limited to, an overpass and associated ramps and roadway widening all as will be further detailed in a certain Developer's Agreement between Applicant, NJDOT and South Brunswick Township, referred to hereinabove.
22. The Board has determined that the timing sequence,

scope and nature of various improvements to be installed and paid for in total or in part by the Applicant shall be set forth in a separate Developer's Agreement which shall be executed prior to submission of an application for final approval or prior to submission of an application for the staging of construction of infrastructure improvements ("Phasing Plan"), whichever shall first occur and shall contain, but not be limited to, provisions addressing the Route 1 improvements, construction of two additional lanes of Northumberland Way from Major Road to Route 522, the construction of East Arterial Way off-tract and the construction of West Arterial Way on-tract and off-tract, Pump Stations Nos. 10 and 13 together with the force mains associated with each, water system upgrades as may be necessitated by the development including a water main connection to Georges Road.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of South Brunswick that the aforesaid application for preliminary major subdivision approval with design waivers and design exceptions and minor subdivision approval with design waivers and design exceptions be and the same is hereby granted subject to the following conditions:

- A. Applicant shall comply with all conditions and representations of Applicant heretofore stated.
- B. Applicant shall execute, prior to submission of an application for final approval or approval of a Phasing Plan, whichever shall first occur, a Developer's Agreement in a form satisfactory to the Planning Board and the Township Committee of South Brunswick which Agreement shall be in recordable form and shall address, inter alia, the timing of

construction, obligation for payment, and timing of payment for various off-tract and on-tract improvements including, but not limited to road improvements, waterline improvements, sewer system improvements.

C. Applicant shall submit, with the final submission application or the construction of the affected improvements, whichever shall first occur, the following:

- (1) An easement from Lot 76 in Block 86 to connect a sanitary sewer main to a 24 inch main located at the existing tunnel under the railroad tracks;
- (2) Approval from Conrail to perform borings to connect the existing 14 inch main on Georges Road;
- (3) A Deed to portions of Lot 26.03 in Block 86.03 as shown on the plans;
- (4) A utility easement through Lot 27.01 in Block 86 for the off-site water main connection to Georges Road;
- (5) A slope easement from Lot 52 in Block 86 for the construction of Northumberland Way and from Lot 29 in Block 86 for the construction of East Arterial Road; and
- (6) Any easements necessary for construction of improvements.

No light

D. All stormwater drainage and sewer and water utility plans, both on-site and off-site, shall be submitted to and approved by the Township Engineer prior to plan sign-off.

E. Applicant shall apply for Title 39 enforcement on private property until such time as Northumberland Way is dedicated and accepted by the Township. Upon acceptance of dedication of Northumberland Way, Title 39 applicability will be considered at the time of site plan approval for each individual lot. Applicant shall be responsible for preparation of plans and documentation necessary for Title 39

approval(s).

- F. Prior to final plan sign-off, Applicant shall grant an easement for pedestrian access for Block 86, Lot 47 along the southerly lot line of Lot 89.028 in Block 86 in the set-back area of said lot.
- G. Applicant shall revise plans to depict an easement for the as-built roadway and a sight triangle for the easterly corner of the Executive Drive/Cornwall Road intersection.
- H. Applicant shall submit revised plans depicting hydrant spacing and locations as required by the Fire Marshall.
- I. Applicant shall submit revised plans for the major subdivision depicting that portion of Arterial Way on site west of Northumberland Way which land shall be reserved for the benefit of the Township of south Brunswick for the period of time coterminous with preliminary approval and any extensions thereof and which land, upon the construction of the aforesaid portion of Arterial Way shall be dedicated, without cost or compensation, to the Township of South Brunswick. Upon such dedication, it is understood that this requirement could create one additional OR lot.
- J. Applicant shall submit, prior to submission of an application for final approval or prior to submission of a Phasing Plan, whichever shall first occur, in a form reasonably satisfactory to the Township Attorney and the Attorney for the Planning Board, all covenants, conditions and restrictions governing the management, control and maintenance of open space by an association to be formed by

Applicant.

- K. Dedication of ^{proposed} lots 101 and 104 in Block 86 to the Township of South Brunswick.
- L. Compliance with April 14, 1994 Memorandum from Michael A. Kobylarz, P.E., Assistant Township Engineer, as determined by the Township Engineer.
- M. Compliance with April 11, 1994 Memorandum from Thomas L. Evans, Public Works Director.
- N. Other approvals/permits:
- (1) Middlesex County Planning Board [prior to plan sign-off].
 - (2) Freehold Soil Conservation District [prior to site disturbance].
- O. Applicant shall comply with all conditions of PBR 360B "Cluck-U-Chicken" including Condition No. 5 as modified. Further, Applicant shall submit revised plans containing a note referencing the conditions of PBR 360B.
- P. Plans to be provided for off-tract portion of Northumberland Way to be constructed by Applicant as required by this approval.
- Q. A bikeway system shall be provided in accordance with the Master Plan, and a pedestrian network shall be provided on tract consistent with recommendation or Robert G. Hall, Planning Director, in a Memorandum of January 14, 1994.
- R. Applicant shall comply with requirements of Fire Marshall Robert Davidson as noted in his Memorandum of September 28, 1993.
- S. Function classifications of proposed roads (i.e. arterial, collector, local, etc.) shall be

determined in conjunction with the traffic mentioned above.

- T. Application is subject to the provisions of Chapter 240, Trees.
- U. Execution of a Drainage Facility Maintenance Agreement prior to submission of an application for final approval or prior to submission of a Phasing Plan, whichever shall first occur.
- X. All structures (bridges and culverts) to be constructed within public rights-of-way which span waterways shall be designed to conform to Middlesex County criteria.

I Hereby Certify That The Foregoing Is A True Copy Of A Resolution Adopted By The Planning Board Of The Township Of South Brunswick At A Regular Meeting Held On The 15 Day of June, 1994.



Dorothy J. Fee, Planning Board Secretary

EXHIBIT D

DEVELOPER'S AGREEMENT

This Agreement made this 2nd day of May, 1995, between the TOWNSHIP OF SOUTH BRUNSWICK, a municipal corporation of the State of New Jersey, with offices at the South Brunswick Municipal Building, Monmouth Junction, New Jersey 08852 (the "Township"), THE PLANNING BOARD OF THE TOWNSHIP OF SOUTH BRUNSWICK, with offices at the South Brunswick Municipal Building, Monmouth Junction, New Jersey 08852 (the "Planning Board"), and JERSEY CENTER/FIDOREO INC., a corporation of the State of New Jersey, with offices at c/o First Fidelity Bank, 550 Broad Street, Newark, New Jersey 07102 (the "Developer.")

W I T N E S S E T H

WHEREAS, Developer is the owner of properties designated as Lots 89.013 and 89.023 in Block 86 on the Tax Map of the Township of South Brunswick (the "Property"); and

WHEREAS, in connection with an application for preliminary major subdivision approval for the Property, Developer has submitted plans, specifications and reports prepared by Henderson and Bodwell, Consulting Engineers (collectively the "Plans"); and

WHEREAS, by Resolution adopted June 15, 1994 (the "Resolution"), the Planning Board granted preliminary major subdivision approval for the Property with waivers and design exceptions for a period of twenty years as more specifically set forth in the Resolution attached hereto as Exhibit A; and

WHEREAS, Developer has proposed infrastructure improvements for the Property based on a maximum build out of the

Property of 6.43 million square feet of office, research and conference space (the "Design Density"); and

WHEREAS, Developer and the Township desire to enter into this Agreement to assure that the development of the Property proceeds in accordance with the Resolution, all applicable ordinances, regulations, and laws of the Township and all other governmental authorities with jurisdiction.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Township, the Planning Board and Developer agree as follows:

1. Land Use Ordinance.

1.01. Incorporation. Unless otherwise provided for in the Resolution or this Agreement, all terms and conditions of the Land Use Ordinance of the Township of South Brunswick (the "Land Use Ordinance") are incorporated in this Agreement as if set forth at length herein and are applicable to the development of the Property.

2. Installation of On Tract Improvements.

2.01. General Conditions. All on-tract improvements installed by the Developer shall be at the Developer's sole cost and expense, shall be installed in a good and workerlike manner, and shall be installed as shown on the Plans as approved by the Township Engineer and/or required by the Resolution. All work shall comply with the requirements of all applicable state, county, and municipal laws, regulations, ordinances and directives. Developer's obligations shall

include, without limitation, compliance with (i) any approved soil erosion and sediment control plan, (ii) Stream Encroachment Permit number 1221-89-00, (iii) Retention Basin Agreement dated March 17, 1987 by and among Township of South Brunswick, Middlesex County Planning Board and South Brunswick Industrial Properties, Inc., and (iv) that certain Settlement Agreement dated March 30, 1992 by and among the New Jersey Department of Environmental Protection ("NJDEP"), Rieder Land Technology, Inc., New Jersey Conservation Foundation, New Jersey Audubon Society, Association of New Jersey Environmental Commissions and American Littoral Society (the "Settlement Agreement").

2.02. Northumberland Way. Subject to Developer's right to propose a plan for the staging of construction of infrastructure improvements, as more particularly described in Section 2.02 (iii) (the "Phasing Plan"), Northumberland Way shall be constructed in the following stages:

(i) Upon the execution by the Planning Board of a final subdivision or site plan for any section of the Property, the Developer shall commence installation of two lanes of Northumberland Way with turning lanes, from Route 1 to Major Road, provided that the Township shall acquire the land necessary for construction of Northumberland Way from the southerly boundary of the Property to Major Road (the "Northumberland Extension"). Developer shall perform all design work, submit plans and obtain all permits and approvals in connection with the Northumberland Extension. In the event the Township is unable to acquire the land for the Northumberland Extension, Northumberland Way shall be constructed to the southerly boundary. Construction shall be completed prior to the issuance of a Certificate of Occupancy for any building on the Property.

During this stage, the Developer shall install (a) the entire stormwater management system, as shown on the Plans and approved by the Township Engineer, (b) such portions of the sanitary sewer and water systems, as shown on the Plans and approved by the Township Engineer, as the Township Engineer shall reasonably determine are necessary to avoid future conflicts with the roadway improvements and (c) such off tract improvements as may be necessitated by this stage of development and for which Developer shall submit plans to be approved by the Township Engineer.

(ii) Six lanes of Northumberland Way, as shown on the Plans, together with four lanes of the Northumberland Extension and such additional lanes as may be required pursuant to the Traffic Study (as defined in section (iii) below), shall be completed prior to the issuance of a Certificate of Occupancy for any building on the Property which, together with such square footage as may be constructed in Block 86 on Lots 22.03, 22.04 and 21.10 after the date hereof, creates square footage in excess of 400,000 square feet (that amount of square footage remaining to be constructed before Developer exceeds the permissible levels of development under that certain Highway Occupancy Permit No. S-1-3-12-84 issued by the New Jersey Department of Transportation ("NJDOT")). During this stage, the Developer shall (a) complete installation of the sanitary sewer and water systems as shown on the Plans, and (b) such off tract improvements as may be necessitated by this stage of development and for which Developer shall submit plans to be approved by the Township Engineer.

(iii) Notwithstanding the provisions of sections 2.02(i) and (ii), Developer shall have the right to propose the Phasing Plan taking into account off tract and on site roadway improvements. The Phasing Plan shall be based upon (a) a traffic study (the "Traffic Study") to be performed at Developer's expense which shall be submitted to the Planning Board on or before April 15, 1995, provided that if Developer does not receive requested traffic data from Garmen

Associates by January 15, 1995, then Developer shall compile such data and the Traffic Study shall be submitted by May 15, 1995, provided further that if Developer is proceeding expeditiously, such later date as may be necessary due to delays or unforeseen conditions beyond the control of Developer or Developer's agents and (b) an agreement between the Developer, the Township and NJDOT as to roadway improvements for the intersection of Route 1 at Northumberland Way (the "Route 1 Agreement"). Extensions of time for completion of the Traffic Study due to delays or unforeseen conditions beyond the control of Developer or Developer's agents shall be approved by the Planning Board, such approval not to be unreasonably withheld or delayed. The Township agrees to make application to the NJDOT and use its best efforts to obtain the Route 1 Agreement in an expeditious manner, provided that Developer shall, at its sole cost and expense, provide all plans and documentation as may be required. The Traffic Study shall include, but not be limited to, the following and such additional criteria as may reasonably be required by the Township Engineer consistent with industry standards:

1. Peak hour traffic volume data for Route 1 at Northumberland Way and Major Road at Northumberland Way.
2. Estimate of projected highway growth.
3. Trip generation rates for the Property.
4. Estimates as to the amount of existing traffic that will be diverted to Northumberland Way when the roadway is built between Route 1 and Major Road.
5. Proposed limits of development of the Property with the following improvements:
 - a. Two lane Northumberland Way.
 - b. Four lane Northumberland Way.

- c. Two lane overpass at the Northumberland Way/Route 1 intersection.
 - d. Four lane overpass at the Northumberland Way/Route 1 intersection.
 - e. Additional improvements to Northumberland Way at the Route 1 and Major Road intersections.
 - f. Six lane Northumberland Way.
 - g. East Arterial Way.
 - h. West Arterial Way.
6. A range of development for each stage of access improvement with variations in volumes of traffic generated with and without transportation management systems.
7. Such other criteria as may be reasonably requested by the Planning Board.

In the event that the Developer submits the Traffic Study to the Planning Board and proposes the Phasing Plan as an amendment to the preliminary major subdivision approval, the Planning Board shall hold a public hearing in accordance with the Land Use Ordinance for the sole purpose of considering and approving the Phasing Plan if warranted after consideration of the Traffic Study and all of the testimony including, but not limited to, the Board's traffic expert. The Developer shall consent to such modifications to the Phasing Plan as the Planning Board may reasonably request.

2.03 East Arterial Way Improvements. East Arterial Way shall be constructed on tract as shown on the Plans prior to the issuance of a Certificate of Occupancy for any.

building on any lot contiguous to such roadway which is the subject of the preliminary major subdivision approval. In the event Developer elects to perform the Traffic Study and propose the Phasing Plan, phasing of improvements for East Arterial Way shall be included as part of an amendment to the preliminary major subdivision approval.

2.04 West Arterial Way Improvements. Developer shall reserve a right of way for West Arterial Way for a period of time coterminous with preliminary major subdivision approval. If, during the period of such reservation, the Township determines that West Arterial Way is to be constructed, such right of way shall be dedicated to the Township, provided that the Developer shall not be obligated to construct West Arterial Way.

3. Off-Tract Roadway Improvements.

3.01 Installation by Developer. All off tract improvements installed by Developer shall be at the Developer's sole cost and expense, shall be installed in a good and workerlike manner, and shall be installed as required by the Resolution and as more particularly set forth in sections 3.02 and 3.03. All work shall be in conformance with the terms, conditions, specifications and requirements of the plans as may be prepared by Developer's engineer and approved by the Township Engineer.

3.02 Northumberland Extension. Developer shall install the four lane extension of Northumberland Way from the

southerly boundary of the Property to Major Road in the same manner and in the same stages as the on tract portion of Northumberland Way as set forth in Sections 2.02(i) and (ii). All associated storm water drainage systems and utilities shall be constructed by the Developer consistent with plans approved by the Township Engineer. In the event that the Phasing Plan is approved by the Planning Board, the phasing of the installation of this section of Northumberland Way shall be consistent with the phasing of the on tract installation of Northumberland Way.

3.03 Route 1. Developer shall install the Route 1 improvements including, but not limited to an overpass and the associated ramps and roadway widening in such manner and at such times as may be determined by the Route 1 Agreement.

4. Pro Rata Share.

4.01 Off-Tract Improvements. The Developer shall pay to the Township in accordance with Chapter 175-52 of the Land Use Ordinance its pro rata share of the following off tract improvements as may be necessitated by development of the Property:

1. Construction of two additional lanes of Northumberland Way from Major Road to Route 522.
2. The construction of East Arterial Way.
3. The construction of West Arterial Way.
4. Pump Stations No. 10 and No. 13, together with the force mains associated with each.
5. Water system upgrades as may be necessitated by the development, including a water main connection to Georges Road.

6. Such other improvements as may be determined by the Traffic Study or Route 1 Agreement or necessitated by development of the Property.

4.02 Calculation of pro rata share of roadway improvements. Consistent with chapter 175-52 of the Land Use Ordinance, Developer's pro rata share of the roadway improvements listed in section 4.01 and all other off tract improvements necessitated by Developer's development, shall be determined by the Township Engineer and/or the Director of Planning on the basis of (i) the Land Use Inventory and Forecast Update, South Brunswick Township Circulation Master Plan, dated April 10, 1991, prepared by Garmen Associates; and (ii) Highway Improvement Costs and Pro Rata Allocation of the South Brunswick Circulation Master Plan, dated October 5, 1992 prepared by Garmen Associates, provided that, in the event Developer provides the Planning Board with the Traffic Study and the Planning Board adopts a resolution amending preliminary major subdivision approval to include the Phasing Plan, Developer's pro rata share shall be based on estimates and data prepared in connection with the Traffic Study.

4.03 Payment of Pro Rata Share. Developer's pro rata share of each off tract improvement not constructed by Developer shall be paid at the time each final site plan is signed by the Planning Board for each lot. Payment for each lot shall be in an amount equal to such lot's proportionate share which shall be calculated by multiplying (i) the Property's pro rata share of such off tract improvement by (ii) a fraction the numerator of which is the total square footage as shown on such

lot's site plan and the denominator of which is the Design Density. Alternatively, the parties may agree that the Property's pro-rata share will be based on traffic generation.

4.04 Credit for Oversized Water Line Constructed by Developer. The Design Density necessitates a 12 inch water main. The Developer has agreed to construct a 16 inch water main throughout the Property. The Developer shall receive a credit for construction of the water main, which credit shall be in an amount equal to the additional cost between installation of a 12 inch and a 16 inch water main. Such credit shall be determined as provided in Chapter 175-52 of the Land Use Ordinance and shall be offset against the Developer's pro rata share of off tract improvements not constructed by the Developer.

4.05 Credit for Other Improvements. Consistent with chapter 175-52B of the Land Use Ordinance, Developer shall be entitled to a credit in an amount equal to the difference between the total cost of the improvement required by the Planning Board and the cost of the improvement required by the development of the Property. Any such credit shall be applied against Developer's pro rata contributions to be paid under Sections 4.02 and 4.03. In reviewing development applications of other developers who benefit from improvements installed by Developer, the Planning Board shall establish the pro rata share of such other developers and, as a condition of their approvals, require reimbursement to Developer in an amount equal to such other developer's pro rata share, provided that the Planning

Board's action or inaction shall not give rise to a cause of action by the Developer against the Planning Board or the Township.

4.06 Credit for Benefit to Other Developers. In connection with the Traffic Study and adoption of the Phasing Plan, the Planning Board may, pursuant to Section 175-52.B.(d), require the Developer to construct any off-tract roadway improvement in its entirety, in which event the Developer shall receive a credit equal to the benefit to others, which credit will be offset against the Developer's obligation for a pro-rata share of off-tract street improvements not constructed by the Developer.

5. Other Agreements.

5.01 Association. Developer shall cause to be established an association to manage, maintain and control all areas designated on the Plan as open space.

5.02 Easements and Agreements. Prior to submission to the Planning Board of an application for final major subdivision map for each section, which may include one or more lots, or construction of the affected improvement, whichever occurs first, the Developer shall prepare and record the following agreements, if applicable, which shall be in form reasonably satisfactory to the Township Attorney and the Attorney for the Planning Board:

1. Covenants, conditions and restrictions governing the management, control and maintenance of open space by a South

Brunswick Center Association to be formed by Developer.

2. Drainage facility maintenance agreements.
3. Utility and conservation easements.
4. An easement from Lot 76 to connect a sanitary sewer main to a 24 inch main.
5. Approval from Conrail to perform borings to connect the existing 14 inch main on Georges Road.
6. An easement from Lot 29 in Block 86 for construction of a retaining wall.
7. A Deed to portions of Lot 26.03 in Block 86.03 as shown on the Plans.
8. An access easement to the cemetery.
9. An agreement to transfer Lot 1.04 in Block 86.03 as shown on the Plans to the Township.

6. Inspections and Inspection Fees. The Township.

Engineer shall inspect and approve all work. Prior to commencement of construction of each improvement, Developer shall pay to the Township an inspection fee for such improvement as required by the Township Land Use Ordinance Section 175-53F and N.J.S.A. 40:55D-53h. The inspection fee shall equal five percent (5%) of the cost of required improvements as determined by the Township Engineer.

7. Performance Guaranty. Prior to the signing of the subdivision plat or deed, or, in the case of phasing, prior to the commencement of each phase, Developer shall complete construction of all improvements and completion of the work shall be certified in writing by the Township Engineer. Alternatively,

as permitted under chapter 175-45 of the Land Use Ordinance, Developer shall file with the Township a performance guaranty in favor of the Township in an amount not to exceed one hundred twenty percent (120%) of the cost of the improvements which may be in the form of a letter of credit.

8. Maintenance Guaranty. Before accepting any improvements installed by Developer, the Township shall require Developer to provide a maintenance guaranty in favor of the Township in an amount not to exceed fifteen percent (15%) of the estimated cost of the improvements as estimated by the Township Engineer. The maintenance guaranty shall run for two (2) years from the date of final acceptance of the improvements by the Township.

9. Dedication. All improvements constructed or installed within a Township-owned public right-of-way, and all other improvements designed to serve or benefit the public, shall be dedicated to the Township (unless dedication is to be made to another governmental entity with jurisdiction) upon completion by the Developer and certification of completion by the Township Engineer.

10. Maintenance of Improvements Before Acceptance. Developer shall maintain all improvements, including but not limited to roadways, curbing and drainage structures, unless and until such improvements are dedicated to and accepted by the Township, or another governmental entity with jurisdiction.

11. Terms and Conditions of Approval. All terms and conditions of the approvals granted to Developer by the Planning Board of the Township of South Brunswick, and all terms and conditions of Developer's application and the plans are incorporated into this Agreement as if set forth herein at length. Nothing in this Agreement shall be construed to excuse Developer from any obligation imposed by any terms or conditions of any resolution of approval.

12. Successors and Assigns Bound. This Agreement shall run with the land for a period of twenty (20) years commencing on June 15, 1994. This Agreement shall bind and benefit Developer and the Township and their respective successors and assigns. All references herein to either party shall be interpreted to include references to successors and assigns.

13. Recordation. This Agreement shall, be recorded at the Developer's expense, within ten (10) days of execution by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

WITNESS

John M. Can
John R. McCord, Vice President

ATTEST:

Kathleen A. Hoyle
Township Clerk

ATTEST:

Adrienne J. Lee
Board Secretary

JERSEY CENTER/FIDOREO INC.

By: John F. Scherer
John F. Scherer Vice President
TOWNSHIP OF SOUTH BRUNSWICK

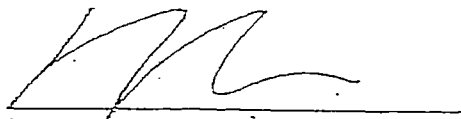
By: Douglas G. Hoffman
DOUGLAS G. HOFFMAN
Mayor

PLANNING BOARD OF THE TOWNSHIP OF
SOUTH BRUNSWICK

By: Roger S. Poo

STATE OF NEW JERSEY)
) SS.
COUNTY OF Essex)

BE IT REMEMBERED that on this 16th day of December, 1994, before me, the subscriber, personally appeared John F. Schaefer, the Vice President of Jersey Center/Fidoreo Inc., a New Jersey corporation, who, I am satisfied, is the person who has signed the within instrument, and I having first made known to him the contents thereof, he acknowledged that he signed, sealed with the corporate seal and delivered the within instrument in his capacity as an officer of such corporation; and that the within instrument is the voluntary act and deed of the corporation, made by virtue of authority from its Board of Directors.



RICHARD NIEMIEC
Attorney At Law, State of New Jersey

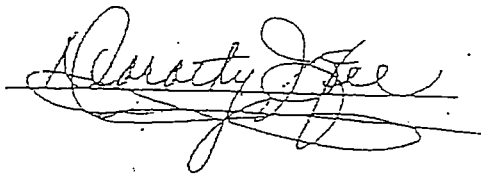
STATE OF NEW JERSEY)
COUNTY OF Middlesex) SS.

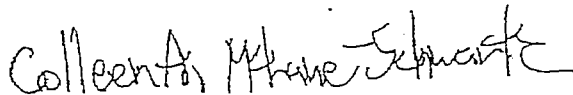
BE IT REMEMBERED that on this 2nd day of May,
1995, before me, the subscriber, personally appeared
DOUGLAS G. HOFFMAN the Mayor of the Township of South
Brunswick, a New Jersey corporation, who, I am satisfied, is the
person who has signed the within instrument, and I having first
made known to him the contents thereof, he acknowledged that he
signed, sealed with the corporate seal and delivered the within
instrument in his capacity as an officer of such corporation, and
that the within instrument is the voluntary act and deed of the
corporation, made by virtue of authority from its Board of
Directors.

Kathleen A. Thorpe
KATHLEEN A. THORPE
MUNICIPAL CLERK
STATE OF NEW JERSEY

STATE OF NEW JERSEY)
COUNTY OF Middlesex) SS.

BE IT REMEMBERED that on this 13 day of April,
1995, before me, the subscriber, personally appeared
Roger Patta, the Chairman of the Planning Board of the
Township of South Brunswick, a New Jersey corporation, who, I am
satisfied, is the person who has signed the within instrument,
and I having first made known to him the contents thereof, he
acknowledged that he signed, sealed with the corporate seal and
delivered the within instrument in his capacity as an officer of
such corporation, and that the within instrument is the voluntary
act and deed of the corporation, made by virtue of authority from
its Board of Directors.





COLLEEN A. McLANE-SCHWARTZ
Notary Public of New Jersey
My Commission Expires Sept. 28, 1998

EXHIBIT E

RESOLUTION
SOUTH BRUNSWICK PLANNING BOARD

WHEREAS, South Brunswick Center, LLC has made application to the South Brunswick Planning Board, File No. 09-030, for minor subdivision/lot line adjustment for two (2) existing lots on property in the OR (Office Research) zone bordered by Route 1 North, Northumberland Way and Cornwall Road and designated on the Tax Map of the Township of South Brunswick as Block 86.03, Lot 22.03 and Block 86, Lot 22.04; and

WHEREAS, the applicant does not request any variances with the proposed minor subdivision; and

WHEREAS, this matter was the subject of a public hearing which occurred on April 28, 2010; and

WHEREAS, the applicant submitted the following documents in support of the application:

- 1) Minor Subdivision Map revised October 18, 2009, consisting of one sheet, prepared by Henderson and Bodwell, LLP.; and

WHEREAS, the applicant presented the following witnesses in support of the application:

- 1) William Iafe Applicant Representative; and
- 2) Patrick Ilsley Professional Land Surveyor; and

WHEREAS, it was discussed at the commencement of the hearing that South Brunswick Center, LLC was involved in litigation with the South Brunswick Planning Board and the South Brunswick Township Council resulting recently in the Superior Court of New Jersey, Appellate Division remanding the matter back to the Planning

Board for consideration. The subject matter of that litigation was the applicant's request for an extension of zoning protection involving a tract of land, which includes, among other parcels, the lots, which are the subject of this minor subdivision application. South Brunswick Center, LLC agreed that the South Brunswick Planning Board can proceed on this subdivision application and that the proceeding of this application as well as any information provided during this application shall have no evidentiary value pertaining to any subsequent hearing that may occur before the South Brunswick Planning Board regarding South Brunswick Center, LLC's application for an extension of zoning approval; and

WHEREAS, after considering the evidence presented in support of the application, and there being no public comment, and after considering the reports and comments from the Board's professionals, the South Brunswick Planning Board made the following findings of fact:

- 1) The subdivision application involves two (2) lots. The first lot is Block 86.03, Lot 22.03, which comprises 14.717 acres. The second lot is Block 86, Lot 22.04 which comprises 19.133 acres.
- 2) The two (2) lots are separated by Cornwall Road.
- 3) Cornwall Road was previously improved. The improvements resulted in a realignment of Cornwall Road. This realignment adjusted the property size of both Block 86.03, Lot 22.03 and Block 86, Lot 22.04. As a result of this, the actual on-site conditions do not conform with the existing legal record.
- 4) The existing conditions now consist of the following:
 - a) Block 86.03, proposed new lot 22.031 (previously Lot 22.03) has a lot size of 16.886 acres; and

- b) Block 86, proposed new lot 22.041 (previously 22.04) has a lot size of 16.343 acres.

The change in the size of both lots is merely a result of the reconfiguration of Cornwall Road.

- 5) The reconfiguration of the two (2) lots does not cause any bulk variances.
- 6) In the course of the hearing, it was discussed that there is a small triangular shaped area of property located at the Southerly corner of the property. The applicant proposes to include this property in the North UMBERLAND right-of-way. It was discussed at the hearing that ultimately the applicant might request the township to vacate the right-of-way for this area and have it incorporated into an adjacent lot rather than it being part of the North UMBERLAND right-of-way. In light of this, it was agreed that the final legal disposition of this small triangular shaped property can be revisited at the time of any future site plan and/or subdivision application. The Board did not object to the same.

WHEREAS, after making the above findings of fact, the South Brunswick Planning Board made the following conclusions:

- 1) The proposed minor subdivision conforms to Township Ordinance. Furthermore, the proposed minor subdivision is merely an adjustment of lot lines as a result of the improvement/realignment of Cornwall Road. Approval of the proposed subdivision reconciles how the lots are shown on the legal record with the actual on site conditions. As a result, the proposed minor subdivision should be granted.

NOW, THEREFORE, be it resolved by the South Brunswick Planning Board that the application by South Brunswick Center, LLC, File No. 09-030, for proposed minor subdivision/lot line adjustment for two (2) existing lots on property in the OR (Office Research) zone bordered by Route 1 North, Northumberland Way and Cornwall Road and presently designated on the Tax Map of the Township of South Brunswick as Block 86.03, Lot 22.03 and Block 86, Lot 22.04 is hereby granted subject to the following conditions:

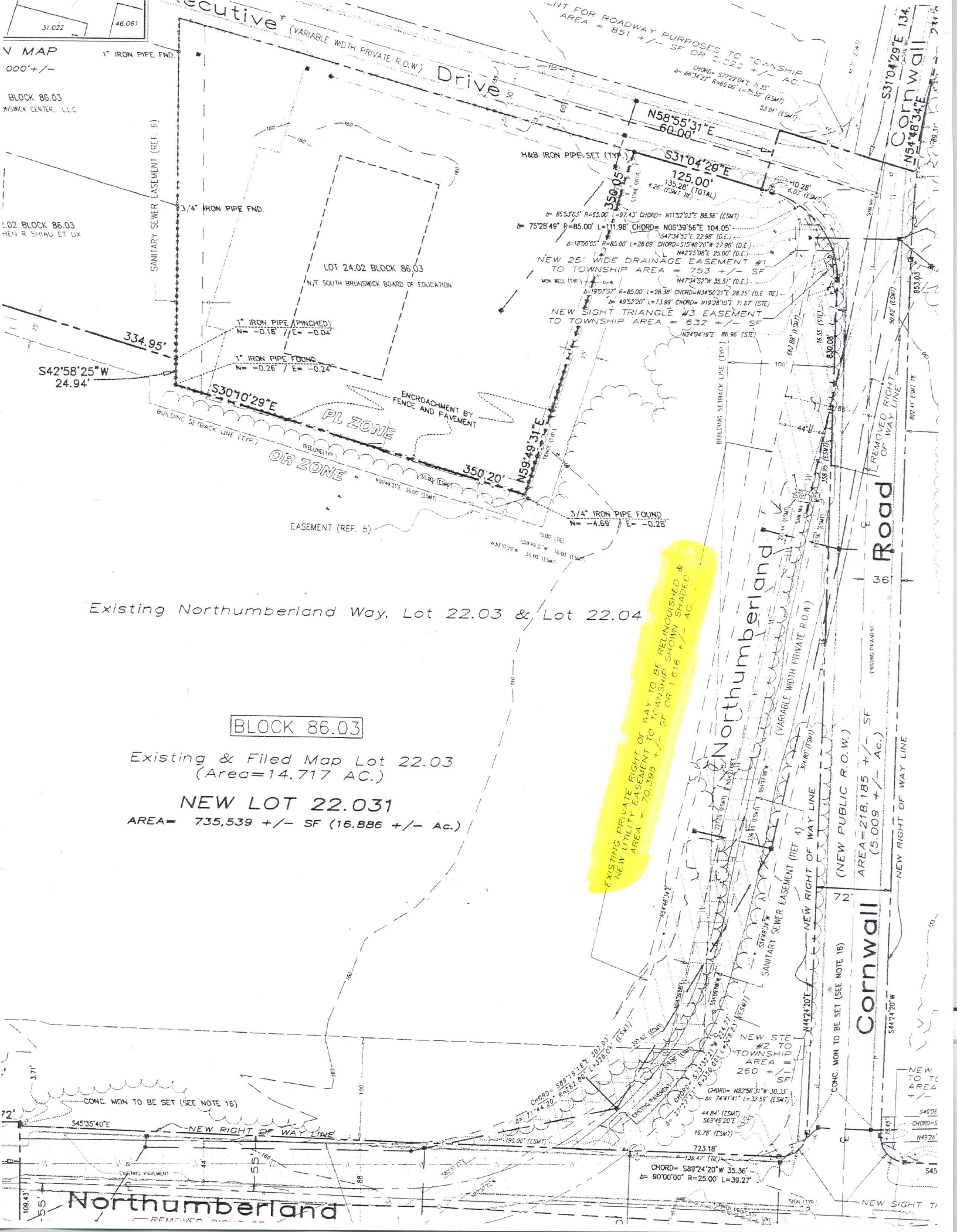
- 1) The applicant perfecting the subdivision in accordance with the legal procedures set forth in the Municipal Land Use Law.
- 2) The applicant providing descriptions of the new lots to the satisfaction of the Township Engineer.
- 3) The applicant obtaining any and all necessary permits and approvals; and
- 4) The applicant complying with the report of Bryan Bidlack dated April 22, 2010 to the satisfaction of the South Brunswick Planning Department and in accordance with the terms and conditions set forth in this approval resolution; and
- 5) The applicant complying with the report of CME Associates dated March 9, 2010 to the satisfaction of CME and in accordance with the terms and conclusions set forth in this approval resolution and with the exception that as to item #1 regarding the issue of a NJDEP Letter of Interpretation that issue is deferred to site plan application.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY OF A RESOLUTION PASSED BY THE PLANNING BOARD FOR THE TOWNSHIP OF SOUTH BRUNSWICK AT A MEETING HELD ON THE 16TH DAY OF JUNE, 2010.

Betty Selinger

NAME	YES	NO	ABSTAIN	ABSENT
Charlotte Camarota				X
Charles Carley				X
Frank Gambatese	X			
William Grober				X
Jo Hochman	X			
Paul Prodromo	X			
Debbie Roedel	X			
Barry Nathanson				X
Mahesh (Mac) Shah	X			
Alt#1 Ed Salvie	X			
Alt#2 Kiran Mummichetty				X

EXHIBIT F



Existing Northumberland Way, Lot 22.03 & Lot 22.04

BLOCK 86.03

Existing & Filed Map Lot 22.03
(Area=14.717 AC.)

NEW LOT 22.031

AREA= 735,539 +/- SF (16.886 +/- AC.)

EXISTING PRIVATE RIGHT OF WAY TO BE RELINQUISHED &
NEW UTILITY EASEMENT TO TOWNSHIP SHOWN SHADED
AREA = 70,395 +/- SF OR 1.616 +/- AC.

